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OFFICE OF PETITIONS

In re Application of
Dykeman
Application No. 10/099,932
Filed: 13 March, 2002
Attorney Docket No.: HDMSYS.007A

DECISION ON PETITION

This is a decision on the renewed petition filed on 2 June, 2003, resubmitted via FAX on 5 November, 2003, and supplemented via FAX on 7 November, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b).

The petition is **GRANTED**.

Petitioner Michael Trenholm (Reg. No. 37,743) (Petitioner) states that the instant nonprovisional application filed with a non-publication request is the subject of what Petitioner identifies as "an application filed in Taiwan on November 27, 2002" (the Taiwan application) Petitioner further indicates that:

- his client did not inform him of the filing of the Taiwan application and no recession and/or Notice thereof of the non-publication request was filed, such that the instant application went abandoned by operation of law after midnight 11 January, 2003, --i.e., 45 days after the Taiwan application was filed; and
- his client directed him to file a PCT application, which he did on 13 March, 2003, but he did not file his recession and Notice thereof until 2 June, 2003, contemporaneously with the filing of the instant petition--more than 45 days of the PCT filing);
- Petitioner unintentionally failed to "Notice" the US Patent and Trademark Office within

45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

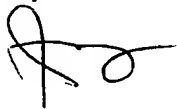
- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 C.F.R. §1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of 19 February, 2004, accompanies this decision on petition.

The application is being forwarded to Technology Center 2800 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request (1 page)